

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
:  
In re: : Chapter 15  
:  
O.W. BUNKER GERMANY GMBH,<sup>1</sup> : Case No. 15-13018 (SMB)  
:  
Debtor in a Foreign Proceeding. :  
:  
-----X

**AGREED ORDER GRANTING RECOGNITION OF  
GERMAN ADMINISTRATION PROCEEDING AND RELATED RELIEF**

This matter was brought before the Court by Dr. Gideon Böhm, a lawyer of the law firm Münzel & Böhm in Hamburg, Germany, and the duly appointed administrator and foreign representative (the “Administrator”) of O.W. Bunker Germany GmbH (the “Debtor”), which is currently in administration proceedings (the “German Proceeding”) under the German Insolvency Code, subject to the supervision of the Local Court of Hamburg.

The Administrator filed the *Verified Petition for Recognition of German Administration Proceeding and Related Relief* on the date hereof (the “Petition”), commencing the above-captioned case under chapter 15 of title 11 of the United States Code (the “Bankruptcy Code”) and seeking entry of an order recognizing the German Proceeding as a “foreign main proceeding” under Bankruptcy Code section 1517 and granting such other relief as is appropriate under the circumstances.

The Court has considered and reviewed the Petition and the other pleadings and exhibits submitted by the Administrator in support thereof.

NuStar Energy Services, Inc. (“**NuStar Services**”) and NuStar Terminals Marine Service N.W. (“**NuStar Terminals**”) (collectively, “**NuStar**”) filed an objection to the Petition.

---

<sup>1</sup> The last four digits of the Debtor’s tax identification number are 0130.

The Debtor and NuStar are parties or third parties to the following actions: *Bonny Gas Transport Limited v. O.W. Bunker Germany GmbH, et al.*, No. 1:14-cv-09542 (S.D.N.Y.); *NuStar Energy Services, Inc. v. M/V Columba, IMO No. 9143233, et al.*, No. 4:14-cv-03350 (S.D. Tex.); *NuStar Energy Services, Inc. v. M/V Canberra Express, IMO No. 9224049, et al.*, No. 4:14-cv-03294 (S.D. Tex.) (“**NuStar Actions**”).

After due deliberation and sufficient cause appearing therefor, the Court finds and concludes as follows:

- (A) this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334;
- (B) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P);
- (C) venue is proper in this District pursuant to 28 U.S.C. § 1410(2);
- (D) the Administrator is a “person” within the meaning of Bankruptcy Code section 101(41) and is the duly appointed “foreign representative” of the Debtor within the meaning of Bankruptcy Code section 101(24);
- (E) this chapter 15 case was properly commenced pursuant to Bankruptcy Code sections 1504 and 1509, and the Petition meets the requirements of Bankruptcy Code sections 1504 and 1515;
- (F) the German Proceeding is a foreign proceeding within the meaning of Bankruptcy Code section 101(23);
- (G) the German Proceeding is entitled to recognition by this Court pursuant to Bankruptcy Code section 1517;
- (H) the German Proceeding is pending in Hamburg, Germany, where the Debtor has its center of main interests within the meaning of Bankruptcy Code section 1502(4), and as such

constitutes a “foreign main proceeding” pursuant to Bankruptcy Code section 1502(4) and is entitled to recognition as a foreign main proceeding pursuant to Bankruptcy Code section 1517(b)(1);

(I) the Administrator is entitled to all relief afforded foreign main proceedings automatically upon recognition pursuant to Bankruptcy Code section 1520 except as otherwise provided herein; and

(J) the relief granted herein is in the interest of international comity and not manifestly contrary to the public policy of the United States.

**NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:**

1. The German Proceeding is hereby recognized as a foreign main proceeding pursuant to Bankruptcy Code section 1517(b)(1).

2. The Administrator is entitled to relief pursuant to Bankruptcy Code section 1520(a)(1) except as provided herein. The automatic stay, to the extent it applies in the NuStar Actions, is lifted for “cause” with respect any claim asserted by any party as of the date hereof in the NuStar Actions, except for the cross-claim asserted by NuStar against the Administrator on December 23, 2015 in Bonny Gas Transport Limited v. O.W. Bunker Germany GmbH, et al., No. 1:14-cv-09542 (S.D.N.Y.). For the avoidance of doubt, to the extent it applies, the automatic stay is lifted for “cause” to allow the parties to the NuStar Actions to pursue and continue pursuing discovery in the NuStar Actions. The Administrator’s rights to seek to impose the automatic stay after entry of this order with respect to any claims or actions are expressly reserved, and this order shall not prejudice in any way the Administrator’s right to seek such relief.

3. The Administrator is entitled to all relief pursuant to Bankruptcy Code section 1520(a)(3) and (a)(4).

4. This Court makes no ruling on whether Bankruptcy Code sections 363 or 549 are applicable to the Administrator in connection with the NuStar Actions. The Administrator's and NuStar's rights with respect to the applicability of these sections are expressly reserved.

5. This Court makes no ruling as to whether this Order may cause the transfer of the NuStar Actions to the bankruptcy court.

6. This Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order and any request for relief from the provisions of this Order.

7. The Petition and supporting papers shall be made available upon request at the offices of McDermott Will & Emery LLP, 340 Madison Avenue, New York, New York 10173 to the attention of Darren Azman, (212) 547-5615, dazman@mwe.com.

8. Notwithstanding Bankruptcy Rule 7062, made applicable to this chapter 15 case by Bankruptcy Rule 1018, the terms and conditions of this Order shall be immediately effective upon its entry and not stayed.

AGREED TO:

/s/ Timothy W. Walsh

Timothy W. Walsh

Darren Azman

**MCDERMOTT WILL & EMERY LLP**

340 Madison Avenue

New York, New York 10173

Telephone: (212) 547-5400

Facsimile: (212) 547-5444

twwalsh@mwe.com

dazman@mwe.com

/s/ Michael Parker

Michael Parker

**NORTON ROSE FULBRIGHT US LLP**

300 Convent Street, Suite 2100

San Antonio, Texas 78259

Telephone: (210) 270-7162

Facsimile: (210) 270-7205

-and-

David A. Rosenzweig

**NORTON ROSE FULBRIGHT US LLP**

666 Fifth Avenue

New York, New York 10103

Telephone: (212) 318-3000

Facsimile: (212) 318-3400

david.rosenzweig@nortonrosefulbright.com

Dated: New York, New York

January 13<sup>th</sup>, 2016

/s/ STUART M. BERNSTEIN

Honorable Stuart M. Bernstein

United States Bankruptcy Judge